UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RICARDO RIVERA PEREZ,

Petitioner,

v. Case No. 8:26-cv-926

BOB GUALTIERI, Sheriff of Pinellas County;
COLONEL JOSEPH GERRETZ, Commander of the Department of Detention and Corrections of the Pinellas County Sheriff's Office;
SECRETARY OF HOMELAND SECURITY;
PAMELA JO BONDI, U. S. Attorney General;
GARRETT RIPA, Miami Field Office Director, U.S. Immigration and Customs Enforcement and Removal Operation;
TODD LYONS, Acting Director of Immigration and Customs Enforcement;
PINELLAS COUNTY SHERIFF'S OFFICE;
U.S. DEPARTMENT OF HOMELAND SECURITY;
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; and
U.S. DEPARTMENT OF JUSTICE

Respondents.

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REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR A WRIT OF HABEAS CORPUS

1. Petitioner, Mr. Ricardo Rivera Lopez (hereinafter, "Mr. Rivera"), files this

timely reply to Respondents' Response to the Petition for a Writ of Habeas Corpus. This reply includes four sections: (1) addressing this Court's jurisdiction to review Mr. Rivera's habeas petition; (2) summarizing the law regarding exhaustion of remedies; (3) discussing the unlawful arrest under the *Accardi* Doctrine; and (4) emphasizing this Court's authority to order immediate release.

I. JURISDICTION

2. Respondents claim that Sections 1252(g) and (b)(9) of the Immigration and Nationality Act divest this court of jurisdiction. Dkt. 8, at 3-4. Respondents' brief misrepresents the caselaw regarding jurisdiction for aliens' habeas corpus petitions.

3. Numerous precedents from the U. S. Supreme Court and United States Court of Appeals for the Eleventh Circuit held that U. S. District Courts have jurisdiction to review aliens' habeas corpus petitions in immigration-related detention. Although the issues surrounding 8 U.S.C. § 1252(b)(9) and 8 U.S.C. § 1252(g) overlap, this reply addresses them separately for clarity.

4. The jurisdictional bars in 8 U.S.C. § 1252(b)(9) and 8 U.S.C. § 1252(g) are narrow—neither of them precludes jurisdiction to challenge the legality of an alien's detention. *See Canal A Media Holding, LLC v. USCIS*, 964 F.3d 1250, 1253 (11th Cir. 2020) ("Also, we hold that 8 U.S.C. § 1252(b)(9) and (g) do not bar the Plaintiffs' challenge to the visa petition denial.").

5. U.S.C. § 1252(b)(9) precludes jurisdiction to review an order of removal,

the decision to seek removal, or the process by which removability will be determined. *DHS v. Regents of Univ. of Cal.*, 140 S. Ct. 1891, 1907 (2020). 8 U.S.C. § 1252(g) only bars jurisdiction to challenge the government's decision to commence proceedings, adjudicate cases, or execute removal orders, *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999)—not challenges to detention.

6. Respondents' Response mischaracterizes Mr. Rivera's petition as if he was challenging the government's decision to commence proceedings, adjudicate cases, or execute removal orders. For example, Respondents cite *Nasrallha v. Barr*, 590 U. S. 573, 580, and *Bonhometre v. Gonzales*, 414 F. 3d 442, 446 (3d Cir. 2005) for the proposition that federal district courts may not review removal orders. Dkt. 8, at 5. However, Mr. Rivera is not challenging a removal order, nor any government decision to commence proceedings, adjudicate cases, or execute removal orders. He challenges his detention.

7. The caselaw cited by Respondents to support their position that this Court has no jurisdiction is either related to challenges to decisions to commence proceedings, adjudicate cases, or execute removal orders. In some instances, the caselaw cited by Respondents establishes the opposite of what they claim.

A. **8 U.S.C. § 1252(b)(9) does not impede jurisdiction because it relates to the review of certain removal orders, not challenges to detention.**

8. 8 U.S.C. § 1252(b) establishes the requirements for review of certain orders

of removal, not challenges to the legality of an alien's detention, "With respect to review of an order of removal under subsection (a)(1), the following requirements apply...". Specifically, 8 U.S.C. § 1252(b)(9) is the "zipper clause." *Canal A Media Holding, LLC v. USCIS*, 964 F.3d at 1257 (11th Cir. 2020).

9. Respondents cite *DHS v. Regents of Univ. of Cal.*, 140 S. Ct. 1891 (2020) to support their position, Dkt. 8, at 5-6, but the holding is the opposite of what Respondents misrepresent. In *DHS v. Regents of Univ. of Cal.*, 140 S. Ct. 1891, 1907 (2020) (quoting *Jennings v. Rodriguez,* 138 S.Ct. 830, 841 (2018) (plurality opinion)), the U. S. Supreme Court ruled that the zipper clause does not preclude jurisdiction "where those bringing suit 'are not asking for review of an order of removal,' 'the decision ... to seek removal,' or 'the process by which ... removability will be determined.'" *DHS v. Regents of Univ. of Cal.*, 140 S. Ct. 1891, 1907 (2020) (quoting *Jennings v. Rodriguez,* 138 S.Ct. 830, 841 (2018) (plurality opinion)).

10. Here, Petitioner is not asking for the review of an order of removal, the decision to seek removal, nor the process by which removability will be determined. Instead, Petitioner is challenging the legality of his detention. The legality, or lack thereof, of Petitioner's detention is independent of the removal proceedings commenced against him.

11. Even if the government does not restrict Petitioner's liberty, removal

proceedings will remain against him, completely unaffected. Therefore, 8 U.S.C. § 1252(b)(9) does not preclude this Court from exercising jurisdiction over Petitioner's habeas corpus claim.

12. In *Jennings v. Rodriguez,* 138 S.Ct. 830 (2018), the U. S. Supreme Court directly addressed the jurisdictional issue in the detention context. The U. S. Supreme Court ruled, "[8 U.S.C. § 1252(b)(9)] does not deprive us of jurisdiction. We are required in this case to decide 'questions of law,' specifically, whether, contrary to the decision of the Court of Appeals, certain statutory provisions require detention without a bond hearing." *Jennings,* 138 S.Ct. at 840. In *Jennings,* the U. S. Supreme Court allowed challenges against the aliens' detention to proceed, holding:

> it is enough to note that respondents are not asking for review of an order of removal; they are not challenging the decision to detain them in the first place or to seek removal; and they are not even challenging any part of the process by which their removability will be determined.

138 S.Ct. at 841.

13. Similarly, here, Petitioner is challenging his detention—not an order of removal, not the decision to detain him in the first place or to seek removal, and not any part of the process by which his removability will be determined. Therefore, this Court has jurisdiction to consider Mr. Rivera's petition for habeas corpus.

B. **8 U.S.C. § 1252(g) does not impede jurisdiction, because petitioner is not challenging the government's decision to "commence proceedings, adjudicate cases, or execute removal orders"—instead, he is challenging his detention.**

14. In *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999), the U. S. Supreme Court ruled, "The provision [8 U.S.C. § 1252(g)] applies only to three discrete actions that the Attorney General may take: her 'decision or action' to 'commence proceedings, adjudicate cases, or execute removal orders.'"

15. More recently, *Canal A. Media Holding, LLC v. USCIS*, 964 F.3d 1250, 1257 (11th Cir. 2020) similarly held, "Instead, § 1252(g) bars challenges only to the 'three discrete actions' enumerated in the statute." Here, Mr. Rivera is challenging his detention, not the government's decision to commence proceedings, adjudicate cases, or execute removal orders. Therefore, this Court has jurisdiction to review Mr. Rivera's petition for habeas corpus.

16. Mr. Rivera's position is also consistent with Supreme Court and Eleventh Circuit precedents directly addressing habeas corpus petitions. For example, in *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001), the U. S. Supreme Court ruled that U. S. district courts have jurisdiction to review "challenges to the lawfulness of immigration-related detention," habeas corpus petitions.

17. In *Zadvydas*, the U. S. Supreme Court explained:

> We note at the outset that the primary federal habeas corpus statute, 28 U.S.C. 2241 confers jurisdiction upon the federal courts to hear these cases. See 2241(c)(3) (authorizing any person to claim in federal court that he or she is being held 'in custody in violation of the Constitution or laws ... of the United States').

533 U.S. at 687.

18. Similarly, *Madu v. U.S. Atty. Gen.*, 470 F.3d 1362, 1368 (11th Cir. 2006),

held that 8 U. S. C. § 1252(g) "does not proscribe substantive review of the underlying legal bases" for an alien's detention. Therefore, consistent with U. S. Supreme Court and Eleventh Circuit precedents, 28 U.S.C. § 2241 establishes jurisdiction to review habeas corpus petitions in immigration-related detention cases.

19. In an unrelated case, *Gupta v. McGahey*, 709 F.3d 1062, 1063 (11th Cir. 2013), the Eleventh Circuit found no jurisdiction in a *Bivens* claim "aris[ing] from the agents' decision or action to commence removal proceedings."

20. In *Gupta*, a citizen of India sought declaratory relief and monetary damages for alleged irregularities during his arrest and seizure of property by Immigration Customs Enforcement. 709 F.3d at 1064. The purpose of the arrest and seizure of property were to commence removal proceedings. *Id.* at 1065. There, the alien was not challenging his detention. In fact, he had been released on bond prior to the suit. *Id.* at 1064.

21. Similarly, *Johnson v. U.S. Attorney General*, 847 F. App'x 801, 802 (11th Cir. 2021), cited by Respondents in Dkt. 8, at 4, found no jurisdiction because the alien was challenging his removal order, not his detention: "The complaint alleges that Immigration and Customs Enforcement ("ICE") lacked probable cause to issue a detainer or a warrant for Johnson's arrest, and because of this illegal seizure, his notice to appear, his detention and the subsequent final order of his removal are unconstitutional."

22. Here, Mr. Rivera is not seeking damages, nor challenging the

government's decision or action to commence removal proceedings. Instead, he is challenging the lawfulness of his detention. *See Javier Gimenez Rivero v. Sheriff John Mina et al.,* Case No. 6:26-cv-66-RBD-NWH, at 4-6 (M. D. Fla. Jan. 26, 2026) ("Because Gupta directly challenged his removal, the Eleventh Circuit affirmed the district court's dismissal of his case on jurisdictional grounds under § 1252(g). But § 1252(g) does not 'impose a general jurisdictional limitation'" (internal citations omitted)).

23. Like the petitioner in *Sheriff John Mina et al.*, Mr. Rivera could not have challenged the commencement of removal proceedings against him, because removal proceedings were initiated after he filed his petition, Dkt. 8, at 3. In *Sheriff John Mina et al.*, at 6, this Court similarly found:

> Here, Gimenez Rivero explicitly challenges the basis for his detention, not the decision to commence removal proceedings. (Doc. 1, p. 6; Doc. 4, p. 2; Doc. 12, pp. 3–4.) The Government's argument to the contrary is, in a word, inexplicable. As a factual matter, challenging the decision to commence removal proceedings would have been a rather difficult thing for Gimenez Rivero to do in the Petition...given that removal proceedings were not actually commenced until days after he filed the Petition. (See Doc. 11-2, p. 1.)

24. In *Sheriff John Mina et al.*, at 13-14, this Court chastised the Department of Justice attorneys for making arguments similar to those made by Respondents in the instant case:

> If the Government is going to argue for expanding the interpretation of a law or maintain a widely rejected position to preserve its appellate rights, it may do so. But its lawyers must make those arguments in a way that comports with their professional obligations, as lawyers have done since time immemorial: Cite the contrary binding authority and argue why it's wrong. Don't hide the ball. Don't ignore the overwhelming weight of

persuasive authority as if it won't be found. And don't send a sacrificial lamb to stand before this Court with a fistful of cases that don't apply and no cogent argument for why they should.

Members of this Bar have a duty of candor to the Court. The Government's response (Doc. 11) does not meet that standard. So U.S. Attorney Gregory W. Kehoe, Esq., and Assistant U.S. Attorney Joy Warner, Esq., must show cause why they should not be sanctioned.

II. EXHAUSTION

A. Exhaustion is futile, because the Board of Immigration Appeals regards aliens in Mr. Rivera's situation as subject to mandatory detention.

25. "It is no longer the law of this circuit that exhaustion of administrative remedies is a jurisdictional requirement in a § 2241 proceeding." *Santiago-Lugo v. Warden*, 785 F.3d 467, 474–75, n.5 (11th Cir. 2015) (abrogating *Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir.2001)).

26. Further, there is no statutory exhaustion of administrative remedies requirement where a noncitizen challenges the lawfulness of her detention. *Cf.* 8 U.S.C. § 1252(d)(1) (requiring exhaustion of administrative remedies only where requesting review of a final order of removal).

27. "[W]here Congress has not clearly required exhaustion, sound judicial discretion governs." *Jones v. Zenk*, 495 F. Supp. 2d 1289, 1297 (N.D. Ga. 2007) (citing *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)). As a matter of discretion, exhaustion of administrative remedies should be waived "(1) where prejudice to the prisoner's subsequent court action 'may result, for example, from an unreasonable or indefinite timeframe for administrative action'; (2) where the

administrative agency may not have the authority 'to grant effective relief'; or (3) 'where the administrative body is shown to be biased or has otherwise predetermined the issue before it.'" *Jones*, 495 F. Supp. 2d at 1297 (citing *McCarthy*, 503 U.S. at 146-48). *See also Woodford v. Ngo*, 548 U.S. 81, 103 (2006) (Breyer, J. concurring) (noting "well-established exceptions to exhaustion" that include constitutional claims, futility, hardship to the petitioner, and where administrative remedies are inadequate or unavailable) (citations omitted)).

28. In making its discretionary decision, the Court should consider the urgency of the need for immediate review. "Where a person is detained by executive order . . the need for collateral review is most pressing. . . . In this context the need for habeas corpus is more urgent." *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).

29. Constitutional challengse to indefinite detention are exempt from administrative exhaustion requirements. *See Woodford v. Ngo*, 548 U.S. 81, 103 (Breyer, J. concurring) (constitutional claims are exempt from administrative exhaustion). "[D]ue process claims generally are exempt from the exhaustion requirement because the BIA does not have jurisdiction to adjudicate constitutional issues." *Khan v. Atty. Gen. of U.S.*, 448 F.3d 226, 236 n.8 (3d Cir. 2006) (internal alterations and quotations removed). *See also United States v. Gonzalez-Roque*, 301 F.3d 39, 48 (2d Cir. 2002) ("'[T]he BIA does not have

jurisdiction to adjudicate constitutional issues . . . .'" (quoting *Vargas v. U.S. Dep't of Immigration & Naturalization*, 831 F.2d 906, 908 (9th Cir. 1987)).

30. Here, the Board of Immigration Appeals does not have authority to review Mr. Rivera's claims because it has already determined that aliens in Mr. Rivera's situation are subject to mandatory detention under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

31. Furthermore, Respondents' position on exhaustion is contradictory. In one part of their Reply, Respondents claim that Mr. Rivera is ineligible for a bond. Dkt. 8, at 1. However, in another part, Respondents claim that Mr. Rivera should have exhausted his appellate rights for a bond and that only the Board of Immigration Appeals has jurisdiction to review bond decisions. Dkt. 8, at 6. Mr. Rivera cannot appeal a bond decision, because he is not eligible to request a bond under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), as Respondents claim. Therefore, exhaustion is futile.

B. Respondents' claims that Mr. Rivera must exhaust administrative remedies, that this court has no jurisdiction, and overall position that Mr. Rivera is subject to mandatory detention, violate the Suspension Clause.

32. Respondents position that Mr. Rivera may not seek a review of his detention, via habeas corpus proceedings, before this Court cannot be the law because it would violate the Suspension Clause.

33. In *INS v. St. Cyr*, 533 U.S. 289, 300 (2001) the Supreme Court explained:

> A construction of the amendments at issue that would entirely preclude review of a pure question of law by any court would give rise to substantial constitutional questions. Article I, § 9, cl. 2, of the Constitution provides: 'The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.' Because of that Clause, some 'judicial intervention in deportation cases' is unquestionably 'required by the Constitution.' *Heikkila v. Barber*, 345 U. S. 229, 235 (1953).

Thus, interpreting the Constitution to preclude judicial review regarding whether an alien's detention satisfies the Due Process Clause implicates the Suspension Clause. Here, judicial intervention is unquestionably required by the Constitution.

34. Furthermore, habeas corpus petitions are meant to challenge the legality of detention, including whether the APA was followed and whether the *Accardi Docrine* was followed.

35. Respondents' argument that Mr. Rivera's APA and *Accardi Doctrine* claims are not cognizable under habeas review contradicts long-established Supreme Court caselaw. In *INS v. St. Cyr*, 533 U.S. 289, 308 (2001), the U. S. Supreme Court expressly found that U. S. district courts may exercise habeas corpus jurisdiction to review *Accardi* claims in the immigration detention context: "The exercise of the District Court's habeas corpus jurisdiction to answer a pure question of law in this case is entirely consistent with the exercise of such jurisdiction in *Accardi*" (internal citations omitted). Thus, habeas relief also involves challenges to detention where the Executive violates statutes, such as the APA, and its own internal regulations—not just constitutional violations.

III. UNLAWFUL ARREST

A. Respondents arrested and detained Mr. Rivera unlawfully, because they did so before the Notice to Appear was filed, violating internal agency regulations.

36. Assuming, *arguendo*, that Respondents' purported arrest warrant is valid, Respondents did not follow the procedures established 8 C. F. R. § 236.1(b) to arrest aliens under the authority of Form I-200, Warrant of Arrest (hereinafter, "administrative arrest warrant"). Therefore, the arrest was unlawful.

37. Pursuant to 8 C. F. R. § 236.1(b)(1), aliens may only be arrested and taken into custody under an administrative arrest warrant at the time the Notice to Appear is issued or at any time thereafter until removal proceedings are completed:

> At the time of issuance of the notice to appear, or at any time thereafter and up to the time removal proceedings are completed, the respondent may be arrested and taken into custody under the authority of Form I-200, Warrant of Arrest. A warrant of arrest may be issued only by those immigration officers listed in § 287.5(e)(2) of this chapter and may be served only by those immigration officers listed in § 287.5(e)(3) of this chapter.

38. Here, Respondents concede that they arrested and took Mr. Rivera into custody before they issued the Notice to Appear. Dkt. 8, at 2. Therefore, Respondents had no authority to arrest and detain Mr. Rivera on April 1, 2026, the day this Petition was filed. The arrest was unlawful.

B. <u>Respondents' purported administrative arrest warrant is invalid, because there is no evidence that it was issued by an authorized officer and the certificate of service is unsigned.</u>

39. There are several reasons for which the administrative arrest warrant, relied upon to arrest and detain Mr. Rivera, is invalid. First, only designated officials may issue administrative warrants pursuant to 8 C. F. R. § 236.1(b): "A warrant of arrest may be issued only by those immigration officers listed in § 287.5(e)(2) of this chapter and may be served only by those immigration officers listed in § 287.5(e)(3) of this chapter."

40. Here, Respondents' purported arrest warrant, Dkt. 8-1, at 8, does not specify the full name of the officer who signed it, nor his position. Thus, there is no evidence that the person who signed it is authorized under 8 CFR § 287.5(e)(2). Under no definition, judicial or administrative, can Respondents' purported arrest warrant fit the definition of an actual warrant. Therefore, the purported arrest warrant is invalid.

41. In addition, there is no signature on the certificate on service on Respondents' purported administrative arrest warrant. Dkt. 8-1, at 8. And the date on the certificate of service is April 2, 2026, the day after Mr. Rivera filed his Petition. *Id.* Once again, Respondent could not have challenged the arrest warrant when he filed his Petition, because he had not been served with it.

C. <u>Because Respondents' purported administrative arrest warrant is invalid, this was a warrantless arrest that did not satisfy</u> 8 C.F.R. § 287.8(c)(2)(ii).

42. Pusuant to 8 C.F.R. § 287.8(c)(2)(ii), officers cannot arrest aliens

for immigration violations unless they have reason to believe that the aliens are "likely to escape before a warrant can be obtained." 8 C.F.R. § 287.8(c)(2)(ii).

43. Here, there is no indication that Respondents had any reason to believe that Mr. Rivera was likely to escape before a warrant could be obtained. In fact, the opposite was the case. First, Mr. Rivera had (and has) a pending Form I 914, Application for T Nonimmigrant Status. Respondents were well-aware of Mr. Rivera's pending application, because they indicated it in, Dkt. 8-1, at 6. It is not in Mr. Rivera's interest to abscond, because Mr. Rivera has every interest in seeing the outcome of his form I 914, whose approval would provide him with lawful immigration status. Second, Mr. Rivera did not abscond from any of his court hearings associated with traffic infractions. See Dkt. 8-1, at 13-14. In fact, he showed up to court knowing that he was facing jail time. See Dkt. 8-1, at 13-14.

44. These violations of internal regulations render Respondents' agency action unlawful under Accardi v. Shaughnessy, 347 U. S. 260 (1954). The only appropriate remedy is to order immediate release. See *Boumediene v. Bush*, 553 U.S. 723, 728-729 ("[T]he habeas court must have the power to order the conditional release of an individual unlawfully detained.").

D. <u>Respondents' arrest and detention of Mr. Rivera is further unlawful, because it did not comply with INA § 239(e), for victims of human trafficking.</u>

45. Mr. Rivera's arrest is further unlawful because it violated INA §

239(e). Under INA § 239(e), officers may not arrest victims of trafficking, unless the officers certify that they did not rely solely on information from an abuser, trafficker, or perpetrator of a crime and has not disclosed the information (except for law enforcement).

46. The certificate related to INA § 239(e) must be placed in the Notice to Appear. Here, there is no such certificate in the Notice to Appear. Respondents knew, or should have known, that Mr. Rivera is a victim of trafficking, because they were well aware that he has a Form I 914, Application for T Nonimmigrant Status pending, Dkt. 8-1, at 6.

E. In the alternative, assuming, *arguendo*, that Respondents lawfully arrested and detained Mr. Rivera pursuant to a valid administrative warrant, it was under the authority of INA § 236(a), making Mr. Rivera eligible for bond.

47. Furthermore, Respondents' claim that they have the authority to issue arrest warrants. However, the only authority that they can point to for issuance of arrest warrants is INA § 236(a). Respondents' purported arrest warrant, Dkt. 8-1, at 8, notes that it was issued pursuant to INA § 236(a). If the arrest warrant was issued pursuant to INA § 236(a), Mr. Rivera is not subject to mandatory detention and is eligible for release under INA § 236(a), because that section of the INA allows for bonds. If the arrest warrant was not issued pursuant to INA § 236(a), it was unlawful because Respondents can point to no other statutory authority to issue an administrative warrant.

48. Mr. Rivera's eligibility would be consistent with the Second Circuit

Court of Appeals and the majority of district court rulings in the country. *See Cunha v. Freden* No. 25-3141-pr (2nd Cir. 2026) ("Our holding is consistent with the decisions of over 370 district judges across the Nation who (as of mid-February 2026) have also rejected the government's position. In other words, over ninety percent of district court judges have sided with Petitioner.").

49. Even after the decision in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701 (5th Cir. Feb. 6, 2026), district courts have continued ordering bond hearings on Due Process grounds. *See e. g., Hassen v. Noem,* 3:26-cv-00048-DB, fn. 1 (W.D. Tex. Feb. 9, 2026) & *Clemente Ceballos v. Garite,* 3:26-cv-00312-DB, fn. 2 (W.D. Tex. Feb 10, 2026) ("*Buenrostro-Mendez* does not change this case's outcome on procedural due process grounds.").

IV. REMEDY SOUGHT: IMMEDIATE RELEASE

A. Mr. Rivera seeks an order for immediate release, because immigration courts are incapable of acting impartially.

50. "[T]he habeas court must have the power to order the conditional release of an individual unlawfully detained." *Boumediene v. Bush*, 553 U.S. 723, 728-729; *see Javier Gimenez Rivero v. Sheriff John Mina et al.,* Case No. 6:26-cv-66-RBD-NWH, at 4-6 (M. D. Fla. Jan. 26, 2026) (ordering release for alien unlawfully detained); *Jose Luis Villatoro Dominguez v. Lyons et al.*, Case No. 3:26-cv-00724-TJC-PDB (M. D. Fla. Apr. 15, 2026) (ordering release for alien unlawfully detained); *see also INS v. St. Cyr*, 533 U.S. 289, 306 n.28 (2001) (quoting *Gegiow v. Uhl*, 239 U. S. 3, 9 (1915), with approval) ("And when the

record shows that a commissioner of immigration is exceeding his power, the alien may demand his release upon *habeas corpus*. The conclusiveness of the decisions of immigration officers under § 25 is conclusiveness upon matters of fact. This was implied in *Nishimura Ekiu v. United States*, 142 U. S. 651, relied on by the Government."). Here, the Court should exercise this authority, because immigration courts are subject to institutional capture by the Executive's mass-deportation, mass-detention policies. Therefore, a bond hearing before an immigration court is no adequate remedy.

51. For example, in *Jackler and Jaroch Consolidation v. Dep't of Justice*, 2026 MSPB 3, 1, Docket No. CF-0752-26-0069-I-1, the U. S. Merit Systems Protection Board, the federal agency in charge of adjudicated labor disputes of federal employees, ruled that immigration judges do not have tenure, providing further evidence of the institutional capture of U. S. immigration courts. The Board expressly found that immigration judges exercise "significant...policymaking authorities on behalf of the United States." In other words, they are instruments of the governments' policy goals, not neutral adjudicators.

52. In addition, a recent New York Times article[1] supports these claims. Approvals for relief before U. S. immigration courts have dropped drastically since the Trump Administration began.[2]

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[1] Nicholas Nehamas et al., *How Trump Purged Immigration Judges to Speed Up Deportations*, N.Y. TIMES, April 9, 2026

[2] *Id.*

53. A current immigration judge described the pressure to deny bond as "overt."[3] The same judge explained that immigration judges are required to let a supervisor know every time a bond is granted,[4] indicating exigency to deny bonds. In a more recent instance, the Executive Branch fired two judges who blocked the removal of two pro-Palestinian students. [5]

54. Similarly, at least one U. S. District Court has found that immigration courts are not impartial. *See Sing v. Valdez*, Civil Action No. 26-cv-1109-WJM, 10-11 (D. Col. Apr. 1, 2026) ("To the contrary, the mounting evidence that bond determination hearings conducted in Immigration Court under § 1226(a) have preordained outcomes has become impossible to ignore.").

55. Thus, Immigration Courts are institutionally incapable of resolving Mr. Rivera's claims fairly and impartially. Therefore, the only appropriate remedy is Mr. Rivera's immediate release.

DATED this 3rd day of May 2026.

/s/José Manuel Godínez Samperio, Esq.
José Manuel Godínez Samperio, Esq.
Lead Counsel for Petitioner Ricardo Rivera Perez

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[3] *Id.*
[4] *Id.*
[5] Dani Anguiano, *Judges fired after blocking deportation of pro-Palestinian students*, THE GUARDIAN, April 13, 2026, https://www.theguardian.com/us-news/2026/apr/13/immigration-judges-fired-trump-administration (last visited, April 14, 2026).

CERTIFICATE OF SERVICE

I hereby certify that, on May 3, 2026, I electronically served a true and correct copy of the foregoing, including any and all attachments, on counsel for Respondents via transmission of a Notice of Electronic Filing generated by the CM/ECF system of the U.S. District Court of the Middle District of Florida.

By: */s/ José Manuel Godínez Samperio*

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